IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 648 OF 2006
IN
SUIT NO. 1989 OF 1995

Sanjeev @ Sanjay Subhash Grover .. Plaintiff.

V/s.

Vertex Trading Co. & Anr. .. Defendants.

Mr.Snehal Shah i/by M/s.Markand Gandhi & Co. for the Plaintiff.

Mr.Simil Purohit i/by M/s.Bhaishankar Kanga & Girdharlal for the Defendants.

CORAM : S.A. BOBDE, J.

DATED : 27th NOVEMBER, 2006.

P.C.:

. Heard.

2. This notice of motion is taken out by the plaintiff for appointment of the court receiver in respect of the suit premises. The premises are Unit No.14, Ground Floor, Ashish Co-op. Industrial Estate Ltd.,Gokhale Road (South, Dadar), Mumbai -25, which are in possession of the defendants and are being used by the defendants as a godown since the year 1985.

3. The plaintiff filed the suit for recovery of possession on the ground that the defendants are tres-

passers. In the suit, the main prayer was for appointment of the court receiver by way of an ad-interim relief. That relief was denied by the learned trial court on 02nd March, 2006. Against this denial, the plaintiff preferred an appeal being Appeal No. 227 of 2006, which was decided on 3rd May, 2006. By the order in the Appeal, the Division Bench appointed the court receiver with direction to appoint the defendant/respondent as his agent and also fix his royalty.

4. Now the plaintiff renews his plea with regard to the appointment of the court receiver with a direction that he be appointed as his agent instead of the defendants. Mr. Shah, the learned counsel for the plaintiff submits that the defendants have no right in the suit premises, particularly, since their earlier plea that they are tenants has been rejected by the court and upheld right upto the Supreme Court. The defendants are, according to him, therefore, rank trespassers.

5. There may be substance in the contention of the learned counsel for the plaintiff. However, these grounds were in existence when the Division Bench appointed the court receiver with the defendants as his

agents. Nothing has altered since then. Admittedly, the defendants are in possession of the suit premises since the year, 1985 and they are using it for storage purpose. Having regard to these circumstances, I see no reason for a direction that the court receiver should remove the agency of the defendants. Therefore, the notice of motion is made absolute in accordance with the order of the division bench dated 3rd May, 2006 in Appeal No. 227 of 2006.

6. However, having regard to the fact that admittedly the defendants' plea of tenancy has been negatived by the court and it appears that they do not have any semblance of right, it would be appropriate in the interest of justice to allow the plaintiff to apply for enhancement of the royalty payable by the defendants for the premises. Liberty is accordingly granted to the plaintiff. If such an application is made, the court receiver shall dispose of the same as expeditiously as possible.

7. Having regard to the narrow controversy remaining in the suit, the hearing of the suit is expedited.

(S.A.BOBDE,J.)

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